

**ATTACHMENT A**

**COMPLIANCE SCHEDULE**

This compliance schedule governs FMC's obligations to effect changes at its Pocatello Facility with respect to its treatment, storage, handling and disposal of wastes. By agreeing to this injunctive relief, FMC neither admits nor denies the applicability of RCRA to the affected units. The provisions of this Compliance Schedule, including the attached Appendices, are not subject to the Dispute Resolution provisions of the Consent Decree (Section XVI), except where the United States seeks stipulated penalties for alleged violations of this Compliance Schedule in which case any review of EPA action shall be conducted under the Administrative Procedure Act, 5 U.S.C. § 701 et seq.

**I. Closure of Specified Regulated Units:**

1. FMC shall close Pond 8S in accordance with all applicable RCRA requirements and the EPA-approved closure plan for this unit. FMC will exercise best efforts to complete the construction of the final cover at this pond by December 31, 1998, but in no event later than November 1, 1999.

2. FMC shall not discharge waste to ponds 8E, 9E and 15S. FMC, however, shall continue to manage the water levels of ponds 8E and 15S, pending closure.

3. On or before December 1, 1998, FMC shall cease the discharge of waste to the Phase IV ponds. FMC, however, shall continue to manage the water levels of these ponds, pending closure.

4. FMC shall submit complete closure plans to EPA for the Phase IV ponds and ponds 15S by August 14, 1998 and for Pond 8E by September 14, 1998. The closure plans for the Phase IV Ponds and Pond 15S shall include the same elements, cap design, performance criteria and level of detail provided in the approved 8S closure plan. The closure plan for Pond 8E shall include temperature and pressure monitoring and gas collection systems at the same level of detail as that included in the approved 8S closure plan. The closure plans for these ponds shall provide for removal of water and the placement of sand and slag cover as early as possible. FMC shall place the initial fill and temporary cover on the Phase IV ponds and on Ponds 8E, and 15S no later than the first construction season following the year in which, by no later than November 30 (December 31 for Pond 8E), EPA approves this initial component of the closure plan. A

"construction season" is the period from May 1st through October 31st annually. If FMC determines that placement of the initial fill and temporary cover on 15S in the first construction season following approval is not feasible, it may delay such placement for one construction season, upon notice to EPA by March 1, 1999, provided that a net, or other bird protection system approved in writing by EPA and the Tribe, is installed at the pond in 1999 in accordance with the requirements of the Pond Management Plan, Section 3.4. FMC shall close the Phase IV ponds and ponds 15S and 8E in accordance with all applicable RCRA requirements and an EPA approved closure plan.

5. On or before November 30, 1998, FMC shall revise its closure plan for 16S. The closure plan shall include the same elements, cap design, performance criteria and level of detail provided in the approved 8S closure plan. The plan shall also provide for placement of a center partition dike in this unit in the construction season in which, by March 1, EPA has approved this component of the closure plan. At least one hundred eighty days prior to the date FMC expects to begin closure of Pond 16S, or as otherwise required by 40 C.F.R. § 265.112, FMC shall submit for EPA approval the complete closure plan for this unit. The date by which FMC expects to begin closure must be within 30 days after Pond 16S receives its final volume of hazardous waste. See 40 C.F.R. § 265.112(d)(2). FMC shall complete construction of the center dike by December 31st of the year in which construction begins. FMC shall complete removal of water and the placement of the initial fill and temporary cover during the second construction season following the year in which EPA approves, by November 30, this component of the closure plan. FMC shall close Pond 16S in accordance with all applicable RCRA requirements and the EPA approved closure plan.

6. FMC shall submit a revised complete closure plan to EPA for Pond 9E by September 14, 1998. The closure plan shall include temperature and pressure monitoring and gas collection systems at the same level of detail as that included in the approved 8S closure plan. FMC shall place the fill and final cover at Pond 9E by no later than December 31st of the year in which, by March 1st, EPA approves the closure plan for this unit. All closure work shall be conducted in accordance with all applicable RCRA requirements and an EPA approved closure plan.

7. FMC shall install and maintain an interim cover on the slag pit sump in accordance with the requirements and specifications for an interim cover contained in Sections 7 and 8 and Appendices B, E and F of the Interim Slag Pit Sump Plan, dated August 1998, which are hereby incorporated into this Attachment. FMC shall complete installation of the interim cover no later than 180 days following entry of the Consent Decree. FMC shall prepare a closure plan for this unit by August 14, 1998. FMC shall submit a complete closure plan to EPA for approval for the Slag Pit Sump on or before May 1, 2000 (180 days prior to date FMC will install slag ladling on all furnace operations). FMC shall complete placement of a final cover by the end of the first full construction season following EPA approval of the closure plan for this unit, and shall complete closure in accordance with all applicable RCRA requirements and the EPA approved closure plan.

8. FMC shall submit revised closure plans to EPA for the scrubber blowdown wastewater treatment unit, the waste management unit #12, and the AFM Washing Unit (WMU #13) within thirty (30) days of receipt of any EPA comments on the plans included in the FMC Part B application. FMC shall complete closure within 180 days of EPA approval of the closure plans.

9. FMC must comply with the financial assurance requirements of 40 C.F.R. § 265 Subpart H.

## **II. Deactivation of ignitable and reactive waste streams.**

10. On or before November 1, 1999, FMC shall submit a revised part A permit application and justification in accordance with 40 C.F.R. § 270.72(a) and (b) for the addition of processes and/or increases in design capacity necessary to construct a Land Disposal Restriction Treatment System ("LDR Treatment System"), including an off-gas treatment system, to satisfy applicable 40 C.F.R. Part 268 land disposal restriction (LDR) requirements and reduce the levels of elemental phosphorus and cyanide in the waste such that:

- a. The treated waste does not exhibit the characteristic of reactivity for phosphine and hydrogen cyanide gas. The phosphine and hydrogen cyanide concentrations released to the ambient air shall not exceed 0.3 parts per million (ppm) phosphine and 10.0 ppm hydrogen cyanide prior to the time the treated waste is placed in a surface impoundment, or is otherwise land disposed. Treated waste may be staged or stored prior to land disposal in compliance with 40 C.F.R. § 268.50. Ambient concentrations of phosphine and hydrogen cyanide gas in the immediate vicinity of the treated waste shall be determined before the treated waste is land disposed in accordance with the EPA approved plan required under Paragraph 12(b), infra.
- b. The treated waste does not exhibit the characteristic of ignitability as confirmed by testing the treated waste in accordance with approved EPA methods [SW-846 method 1030 for solids and the method for liquids specified at 40 C.F.R. § 261.21(a)] before the treated waste is land disposed. Treated waste may be staged or stored prior to land disposal in compliance with 40 C.F.R. § 268.50.

11. EPA will review the part A permit application and justification and grant or deny the request within 90 days of receipt, for the limited purpose of authorizing construction of the LDR Treatment System, including an off-gas treatment system. Operation of the hazardous waste LDR Treatment System, including treatment of off-gas, shall not commence until FMC demonstrates to EPA's satisfaction that the LDR Treatment System can satisfy the requirements specified in Paragraphs 10 and 12, and Appendix 1, infra, and EPA has approved the interim status operating plan and design documents. EPA will review the LDR Treatment System interim status operating plan and design documents submitted pursuant to paragraph 12 below, and approve or disapprove the plan and design documents by December 1, 2000.

12. On or before March 31, 2000, FMC shall submit the information identified in Appendix 1 and:

- a. Design, operation and performance data that show that the LDR Treatment System can satisfy land disposal restriction treatment requirements (including the reactivity and ignitability deactivation requirements specified above), and that the treatment stabilizes the waste by permanently and irreversibly bonding the waste into the molecular structure of a solid product such that the treated waste will not undergo changes that cause it to release toxic gases in concentrations greater than 0.3 ppm phosphine or 10.0 hydrogen cyanide, or leach heavy metals in concentrations greater than applicable LDR Universal Treatment Standards.
- b. An operating plan, which will include a plan and schedule for: testing waste before it is disposed of to ensure that it satisfies LDR requirements; installing and operating air emission monitoring technology that continuously measures and records phosphine and hydrogen cyanide concentrations at locations where the treated waste is disposed of; recording all testing; and reporting test results to EPA and the Tribe, including all exceedances of LDR and phosphine and hydrogen cyanide treatment requirements.

13. Before EPA completes review of the information submitted pursuant to paragraph 12, supra, and approves the interim status operating plan and design documents, the public will be provided with an opportunity to comment on the design documents and performance information, the operating plan, and all the supporting documentation.

14. FMC shall complete construction and commence operation of the Treatment Plant on or before May 1, 2002, in accordance with EPA approved interim status design, construction, operating, monitoring and reporting requirements.

15. Upon commencement of operations and thereafter, all phosphy liquid wastes, including the phos dock waste streams currently exiting the North Solids tank and Northeast Sump (or V-3800 when this tank replaces these tanks), and phosphy wastes exiting the precipitators shall be managed as ignitable and reactive wastes and treated in the LDR Treatment System in accordance with the above specifications and requirements.

16. FMC shall preserve and maintain in the Facility operating record documentation of compliance with the performance standards specified in Paragraph 10, supra.

17. FMC shall not dispose of or manage the treated phosphy waste offsite without prior EPA written approval.

18. FMC shall submit a complete revised Part B application that includes the new LDR Treatment System on or before March 31, 2001, which will be processed in accordance with 40 C.F.R. Part 124.

### **III. Interim Pond Management**

19. FMC shall comply with the terms and schedules of the EPA approved Pond Management Plan, dated September 1998, which is hereby incorporated into this Attachment.

20. Until startup of the LDR Treatment System, but in no event after May 26, 2002, FMC may discharge its phosphy hazardous waste to the Phase IV Ponds and Ponds 16S, 17 and 18, without treating it before or immediately after placement in the impoundment such that the waste no longer meets the definition of reactive or ignitable under 40 C.F.R. §§ 261.21 or 261.23, as required by 40 C.F.R. § 265.229 provided that:

- a. The ponds are otherwise in compliance with applicable RCRA requirements;
- b. FMC is in compliance with the schedule and requirements specified above in Section II for deactivation of ignitable and reactive waste;
- c. Approval of the LDR Treatment System interim status operating plan and design documents is granted by December 1, 2000; and
- d. FMC is in compliance with the terms and schedules of the EPA approved Pond Management Plan.

21. Within five (5) years after the LDR Treatment System begins operation, FMC shall remove all sediment collected in pond 18 in accordance with the EPA approved Pond Management Plan and shall treat it in the LDR Treatment System so that it does not exhibit the ignitability and reactivity characteristics as set forth herein.

22. In the event that FMC deposits in Pond 17 any phosphy waste other than precipitator slurry treated using the NOSAP process and meeting the criteria for NOSAP Waste as set forth in the EPA approved Pond Management Plan, Pond 17 shall be subject to the sediment removal and treatment requirements of Paragraph 21.

### **IV. Plant Upgrades**

23. FMC shall manage phosphorus containing wastes in the Phos Dock and Furnace Building as ignitable (D001) and reactive (D003) hazardous wastes. FMC shall install secondary containment as required by 40 C.F.R. § 265.193, and in accordance with Appendix 2.

24. FMC shall manage ignitable and reactive hazardous waste as required by 40 C.F.R. § 265.198 in accordance with Appendix 2.

## **V. Slurry Pots**

25. FMC shall satisfy the conditions for treatment without a permit specified at 40 C.F.R. § 262.34 or obtain a permit for hazardous waste treatment at the slurry pots.